

**COMMUNITY AFFAIRS  
DIVISION OF LOCAL GOVERNMENT SERVICES**

**Local Finance Board Rules**

**Annual Budget – Reserve for Pension Contributions; Eligibility for Local Examination; Surety Bond Coverage for Chief Financial Officers; Government Electronic Receipt Acceptance – Delinquent Local Unit Obligations; Agency Communications with Local Units – GovConnect and Grants**

**Proposed Amendments: N.J.A.C. 5:30-7.4, 9.2, 16.2 and 16.3**

**Proposed New Rules: N.J.A.C. 5:30-3.7 and 8.2**

Authorized By: Local Finance Board, Susan Jacobucci, Chair

Authority: N.J.S.A. 40A:4-78(b), 40A:5-43, and 52:27BB-10

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2004- 210

Submit comments by August 6, 2004 to:

Patricia Parkin McNamara, Executive Secretary  
Local Finance Board  
Department of Community Affairs  
PO Box 803  
Trenton, New Jersey 08625-0803

The agency proposal follows:

## Summary

The Local Finance Board is proposing new rules and amendments to N.J.A.C. 5:30. Proposed new rules are at Subchapter 3 and Subchapter 8; proposed amendments are at Subchapters 7, 9 and 16.

- The proposed new rule in Subchapter 3 is at N.J.A.C. 5:30-3.7, which is currently reserved. The rule allows counties and municipalities to establish a reserve for anticipated increases in the cost of employee pension contributions.
- The proposed new rule in Subchapter 8 is at N.J.A.C. 5:30-8.2, which is currently reserved. The rule recommends and provides standards for surety bond coverage for chief financial officers and other individuals who are responsible for managing local unit finances.
- Proposed amendments in Subchapter 7 are at N.J.A.C. 5:30-7.4. The amendments expand the criteria for local budget review by the Director.
- The proposed amendment in Subchapter 9 is at N.J.A.C. 5:30-9.2. The amendment provides a definition for the term “delinquent local unit obligation”, and will permit the use of an electronic payment when property taxes or other local unit obligations are unpaid on a current basis.
- The proposed amendments to Subchapter 16 are at N.J.A.C. 5:30-16.2 and 16.3. The amendment at N.J.A.C. 5:30-16.2 expands the list of local officials required to participate in the GovConnect program. The amendment at N.J.A.C. 5:30-16.3 reduces the maximum amount of GovConnect grant funding for eligible participants from \$1,500 to \$1,000, subject to the availability of funds.

The proposed new rule at N.J.A.C. 5:30-3.7, Reserve for pension contributions, allows counties and municipalities to set up reserves for anticipated increases in the cost of employer pension contributions. P.L. 2003, c.108 re-establishes the pension contributions of local units, which had been suspended for several years, and allows them to be phased in over a five-year period. To provide additional flexibility for municipalities and counties in budgeting their pension obligation, the Board is proposing an option that allows funds to be raised and reserved in the year prior to the year when they will be expended. Funds reserved in this manner can only be used to offset pension appropriations, unless otherwise approved by the Board. All reserves must be fully utilized by the close of the 2009 budget year.

The proposed amendments at N.J.A.C. 5:30-7.4, Eligibility for local examination, add new criteria for deeming a municipal budget to be ineligible for local examination and, therefore, subject to review and approval by the Director. Currently, N.J.A.C. 5:30-7.4(b)1 subjects a municipal budget to the Director’s review if the municipality has outstanding fiscal year adjustment bonds. The proposed amendment extends that requirement to include municipalities with refunding obligations for fiscal year adjustment bonds. The proposed amendment at N.J.A.C. 5:30-7.4(b)9 adds to the criteria for making a municipal budget ineligible for local examination. The amendment makes a

municipal budget ineligible for local examination if its most recent audit indicates that the municipality does not maintain an encumbrance accounting system for the current fund, as required by N.J.A.C. 5:30-5.2, or a general ledger accounting system, as required by N.J.A.C. 5:30-5.7.

The proposed new rule at N.J.A.C. 5:30-8.2, Recommended surety bond coverage for chief financial officers, encourages local units to provide fidelity bonding for the chief financial officer or other individual who is responsible for overseeing the local unit's finances. The rule uses a national standard that links the amount of the bond to an exposure index that represents 10 percent of a local unit's total revenues, inclusive of non-municipal tax levies and utility rents.

The proposed amendment at N.J.A.C. 5:30-9.2 provides a definition for the term "delinquent local unit obligation" and helps to clarify the definition of "local unit obligations" which appears further in that same section. The new definition establishes that local unit obligations are delinquent and eligible for tax sale if they are unpaid on the thirtieth day prior to the completion of the tax sale list. The definition provides further that if a municipality conducts an accelerated tax sale, charges that are unpaid on the 11th day of the 11th month of the fiscal year would be delinquent and, therefore, eligible for tax sale. Finally the definition provides that for all other units, an obligation or charge is delinquent once it is turned over to a municipality for collection through the tax sale process. This new definition will permit the use of an electronic payment (such as a credit card) to be used when property taxes or other local unit obligations are unpaid on a current basis, that is, unpaid during the year they are due, but before they are placed for tax sale. Once the deadline in the definition is met, the obligation is deemed delinquent and therefore ineligible for payment by electronic means. It is expected that this will facilitate increased use of electronic payments and increased convenience for taxpayers.

The proposed amendments at N.J.A.C. 5:30-16.2 and 16.3 change the registration requirements and grant limits for GovConnect, the electronic communication program used by local officials. Proposed N.J.A.C. 5:30-16.2(c) expands the list of covered local officials by adding representatives designated by the Board of Commissioners from each local authority, and representatives designated by the Board of Fire Commissioners from each fire district, with the former being registered by October 1, 2004, and the latter by March 1, 2005. Proposed N.J.A.C. 5:30-16.3 reduces the maximum amount of grant assistance for purchasing computer hardware and software that is needed to access the GovConnect website from \$1,500 to \$1,000, subject to the availability of funds.

As the Board is providing a 60-day comment period for these rules, this notice is excepted from the rulemaking calendar requirement, pursuant to N.J.A.C. 1:30-3.3(a)5.

## **Social Impact**

The proposed new rules and amendments to N.J.A.C. 5:30 will have a positive social effect.

The proposed new rule at N.J.A.C. 5:30-3.7 allows counties and municipalities to establish reserves for phasing-in anticipated increases in the cost of employee pension contributions. The phase-in option enables the local unit to plan ahead and budget accordingly for the anticipated cost increases, thereby mitigating the fiscal impact and potential burden to taxpayers if the funds were appropriated fully, when due.

The proposed amendment at N.J.A.C. 5:30-7.4 subjects a municipal budget to approval by the Director of the Division of Local Government Services in instances where there are inclinations toward fiscal instability or indications of irregular record keeping practices. The purpose of the Director's review is to assure that the budget is fiscally sound and in compliance with the provisions of the Local Budget Law, N.J.S.A. 40A:4-1 et seq. This is beneficial to local taxpayers who have a vested interest in the municipality's financial well-being.

The proposed new rule at N.J.A.C. 5:30-8.2 provides guidance to local units in procuring fidelity bonds for their chief financial officers or other individuals who are responsible for overseeing and managing a local unit's finances. The bond indemnifies the local unit for any financial loss resulting from employee dishonesty. This benefits the general public by precluding a tax increase that might otherwise be needed to compensate for the loss.

The proposed amendment at N.J.A.C. 5:30-9.2 will encourage the use of electronic means of making payments for municipal obligations and, in doing so, will promote government efficiency and customer convenience for taxpayers by expanding the use of credit cards and other electronic payments.

Proposed amendments at N.J.A.C. 5:30-16.2 and 16.3 establish registration requirements and funding assistance to enable local authorities and fire districts to gain access to GovConnect. From a social standpoint, although the benefits are not specifically measurable, in general, such access will allow those units to conduct government business electronically, thereby saving time and money for the local unit and taxpayer alike.

## **Economic Impact**

The proposed new rules and amendments to N.J.A.C. 5:30 will have a positive economic effect.

The proposed new rule at N.J.A.C. 5:30-3.7 allows counties and municipalities to phase-in anticipated pension cost increases over a five-year period beginning in 2004 and ending with their fiscal year 2009 budgets. The phase-in enables those local units to

appropriate an amount greater than the liability for a given year during that period, and reserve the difference to pay a subsequent year's obligations. The economic benefit that accrues from this method of payment is that it allows local units to reserve funds in fiscally good years for use in subsequent years, thereby ensuring that sufficient funds are in place to help cover their liability in times when conditions may not be as favorable. This is also marginally beneficial to the local taxpayers in that it insulates them from any tax increase that might be needed to cover future liabilities.

The proposed amendment at N.J.A.C. 5:30-7.4 will help to ensure that a municipality is operating in a fiscally sound manner and that its budget is structured in accordance with statutory requirements. As such, local taxpayers should derive an economic benefit, although the sum and substance of that benefit is not immediately quantifiable. The local unit itself may also benefit in that the time and cost involved in budget review, however minimal, will be passed to the State. The State will not incur any economic burden because sufficient resources for conducting the review are already in place.

The proposed new rule at N.J.A.C. 5:30-8.2 provides a schedule of fidelity bond amounts for a local unit's chief financial officer. Local units are encouraged to purchase the bond to protect them from any loss attributed to dishonest employee practices. Although local units will incur a cost, the Board maintains that the benefit of having the bond and the protection it affords, outweighs the cost.

The proposed amendment at N.J.A.C. 5:30-9.2 carries an economic benefit for both the local unit and the taxpayer. The amendment provides a definition for the term "delinquent local unit obligation" and will permit the expanded use of credit cards to pay local obligations. This benefits the local unit in that it potentially reduces the amount of uncollected taxes, thereby increasing local revenues. It also benefits taxpayers who are economically burdened and lack the appropriate cash-flow to pay their taxes on time. By allowing the use of credit cards, such taxpayers may be able to avoid the risk of losing their property through tax sale or foreclosure.

The proposed GovConnect amendments at N.J.A.C. 5:30-16.2 and 16.3 have a positive economic impact on local authorities and fire districts. Conducting business electronically through GovConnect will enable those units to operate more efficiently and effectively by allowing for a ready exchange of information, and by eliminating telephone, postage and other such costs that would normally be incurred through traditional communications means. The possible availability of grant money to assist in procuring essential hardware and software to enable GovConnect access would be another cost saver for the local authorities and fire districts.

### **Federal Standards Statement**

A Federal standards analysis is not required because the proposed amendments and new rules are not subject to any Federal requirements or standards.

### **Jobs Impact**

The proposed new rules and amendments are essentially administrative directives that supplement existing procedures applicable to municipal budgeting and financial administration, the payment of delinquent local unit obligations, and the conduct of routine business among and between local authorities, fire districts and State agencies. It is not anticipated that these proposed new rules and amendments will have a bearing on the generation or loss of jobs.

### **Agriculture Industry Impact**

The Local Finance Board does not anticipate that the proposed new rules and amendments will have any impact on the State's agriculture industry.

### **Regulatory Flexibility Statement**

The proposed new rules and amendments will impose no reporting, recordkeeping or other compliance requirements on small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The requirements set forth in this proposal affect the practices and procedures of local government units, including municipalities, local authorities and fire districts.

### **Smart Growth Impact**

The proposed amendments and new rules have no impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

**Full text** of the proposal follows (additions indicated in boldface **thus**, deletions indicated in brackets [thus]):

#### SUBCHAPTER 3 – ANNUAL BUDGET

##### **5:30-3.7 Reserve for pension contributions**

**A county or municipality may appropriate and reserve funds for the purpose of anticipating the phase-in increases in the cost of employer pension contributions as set forth in N.J.S.A. 43:15A-24 (Section 1 of P.L. 2003, c. 108). Any such amount to be appropriated is to be determined by the governing body. Nothing in this section shall require any specific amount, or any amount at all to be appropriated in any given year. Once appropriated, funds so reserved for payment of pension contributions shall not be used for any other purpose unless approved by the Local Finance Board. Funds shall be used by anticipating them as revenue in the year they are to be expended. The authority to appropriate and reserve funds or anticipate such funds shall only be effective for fiscal years 2004 through 2009.**

[5:30-3.7 through] 5:30-3.8 (Reserved)

## SUBCHAPTER 7. MUNICIPAL BUDGET LOCAL EXAMINATION AND APPROVAL

### 5:30-7.4 Eligibility for local examination

(a) Upon adoption of this rule, the Director shall randomly assign each municipality to one of three reporting year pools. Each pool shall be assigned the years in which the budget shall be considered for local examination.

1. For calendar fiscal year 1997 budgets, the Director shall notify municipalities of their status as soon as practicable.
2. In subsequent years, within 30 days after the start of each fiscal year, the Director shall determine and notify all municipalities if they are eligible or ineligible for local examination for the fiscal year.

(b) Municipalities that meet one or more of the following criteria shall not be eligible for local examination in a given year and shall have their budgets examined by the Director:

1. Have outstanding fiscal year adjustment bonds **or refunding obligations of fiscal year adjustment bonds**;
2. Qualify for municipal (urban) aid pursuant to N.J.S.A. 52:27D-178 et seq.;
3. Received Supplemental Municipal Property Tax Relief Discretionary (N.J.S.A. 52:27D-118.35) funds in the previous fiscal year;
4. Were subject to a Division field audit that produced negative findings in the previous fiscal year;
5. Are currently or during the previous year were under any form of Local Finance Board supervision pursuant to N.J.S.A. 52:27BB-1 et seq.;
6. Sold its tax levy if permitted by statute in the previous year;
7. The Director's subsequent review of the previous year's locally examined adopted budget shows that the budget failed to meet the requirements of local examination. Such a finding shall disqualify a municipality from local examination for the following three years; [or]
8. If, in the opinion of the Director, the fiscal integrity or solvency of the municipality will be jeopardized by local examination[.]; **or**
9. **If the most recently filed audit indicates the municipality does not maintain a general ledger accounting system or encumbrance system for the current fund.**

(c) (No Change)

## SUBCHAPTER 8. FINANCIAL ADMINISTRATION

### 5:30-8.2 [(Reserved)] Recommended surety bond coverage for chief financial officers

(a) Local units are encouraged to provide a fidelity bond with faithful performance coverage for the chief financial officer or other individual holding overall management responsibility for the local unit's finances separate from the local unit's blanket fidelity bond.

(b) The following schedule is recommended as the basis for the bond amount:

1. The exposure index from which the amount of the bond is calculated, is 10 percent of the total revenues of the local unit, including, but not limited to:
  - i. "Pass through" revenues, such as property tax levies for municipalities;
  - ii. Current, trust, capital and utility funds for municipalities or counties; and,
  - iii. General and special purposes funds for each enterprise of an authority. Management responsibility for the local unit's finances separate from the local unit's blanket fidelity bond.

<u>Exposure Index</u>	<u>Suggested Bond Amount</u>
<u>0 - 25,000</u>	<u>15,000 – 25,000</u>
<u>25,000 – 125,000</u>	<u>25,000 - 50,000</u>
<u>125,000 – 250,000</u>	<u>50,000 – 75,000</u>
<u>250,000 – 500,000</u>	<u>75,000 – 100,000</u>
<u>500,000 – 750,000</u>	<u>100,000 – 125,000</u>
<u>750,000 – 1,000,000</u>	<u>125,000 – 150,000</u>
<u>1,000,000 – 1,375,000</u>	<u>150,000 – 175,000</u>
<u>1,375,000 – 1,750,000</u>	<u>175,000 – 200,000</u>
<u>1,750,000 – 2,125,000</u>	<u>200,000 – 225,000</u>
<u>2,125,000 – 2,500,000</u>	<u>225,000 – 250,000</u>
<u>2,500,000 – 3,325,000</u>	<u>250,000 – 300,000</u>
<u>3,325,000 – 4,175,000</u>	<u>300,000 – 350,000</u>
<u>4,175,000 – 5,000,000</u>	<u>350,000 – 400,000</u>
<u>5,000,000 – 6,075,000</u>	<u>400,000 – 450,000</u>
<u>6,075,000 – 7,150,000</u>	<u>450,000 – 500,000</u>
<u>7,150,000 – 9,275,000</u>	<u>500,000 – 600,000</u>
<u>9,275,000 – 11,425,000</u>	<u>600,000 – 700,000</u>
<u>11,425,000 – 15,000,000</u>	<u>700,000 – 800,000</u>
<u>15,000,000 – 20,000,000</u>	<u>800,000 – 900,000</u>
<u>20,000,000 – 25,000,000</u>	<u>900,000 – 1,000,000</u>
<u>25,000,000 – 50,000,000</u>	<u>1,000,000 – 1,250,000</u>
<u>50,000,000 – 87,500,000</u>	<u>1,250,000 – 1,500,000</u>
<u>87,500,000 – 125,000,000</u>	<u>1,500,000 – 1,750,000</u>

## SUBCHAPTER 9. GOVERNMENT ELECTRONIC RECEIPT ACCEPTANCE

### 5:30-9.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

**“Delinquent local unit obligation,” in a municipality that conducts its tax sale after the close of the fiscal year, means a municipal charge that is unpaid on the 30th day prior to the completion of the tax sale list pursuant to the Tax Sale Law, N.J.S.A. 54:5-1 et seq. In a municipality that conducts an accelerated tax sale, “delinquent local unit obligation” means a municipal charge that is unpaid on the 11th day of the 11th month of the fiscal year. For all other local units, a delinquent local unit obligation means any debt or charge that has been turned over to a municipality for collection through the tax sale process.**

## SUBCHAPTER 16. AGENCY COMMUNICATIONS WITH LOCAL UNITS

### 5:30-16.2 GovConnect

(a) – (b) (No change)

(c) Covered local officials and the date by which they must be registered in GovConnect are as follows:

1. Chief financial officer of a municipality: April 30, 2002.
2. Chief financial officer of a county: April 30, 2002.
3. Municipal Clerk: April 30, 2002.
4. Clerk to the County Board of Chosen Freeholders: April 30, 2002.
5. Tax collectors of a municipality: November 30, 2002.

**6. Representative designated by the Board of Commissioners from each local authority: October 1, 2004**

**7. Representative designated by the Board of Fire Commissioners from each Fire District: March 1, 2005.**

### 5:30-16.3 Grants

Local units whose covered local officials do not have access to an Internet capable computer, service with an Internet service provider, or are in need of appropriate computer and Internet training, may, **subject to availability of funds**, be eligible for grants of up to [\$1,500] **\$1,000** from the Division. The grants will be provided to eligible municipalities and counties, **local authorities and fire districts** for the purchase of computer hardware and software necessary to access the GovConnect website. Appropriate training costs and Internet access subscription costs may also be defrayed

through the grant. Information on grants can be obtained on the Division's website at [www.state.nj.us/dca/lgs/egg](http://www.state.nj.us/dca/lgs/egg), by contacting the Division at (609) 943-4724 or by writing to the Director of the Division of Local Government Services, PO Box 803, Trenton, NJ 08625-0803.